

Conference Engrossed

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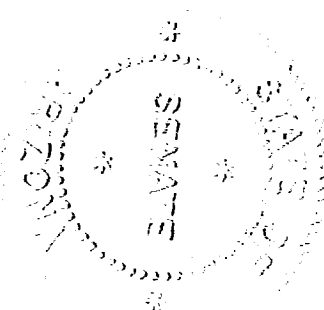
CHAPTER 323

# SENATE BILL 1394

AN ACT

AMENDING SECTIONS 11-445, 12-1809 AND 13-3602, ARIZONA REVISED STATUTES;  
RELATING TO PROTECTION ORDERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-445, Arizona Revised Statutes, is amended to  
3 read:

4 11-445. Fees chargeable in civil actions by sheriffs,  
5 constables and private process servers; authority of  
6 private process servers; background investigation;  
7 constables' logs

8 A. The sheriff shall receive the following fees in civil actions:

9 1. Serving each true copy of the original summons in a civil suit,  
10 sixteen dollars, EXCEPT THAT THE SHERIFF SHALL NOT CHARGE A FEE FOR SERVICE  
11 OF ANY DOCUMENT PURSUANT TO SECTION 13-3602 OR ANY INJUNCTION AGAINST  
12 HARASSMENT PURSUANT TO SECTION 12-1809 IF THE COURT INDICATES THE INJUNCTION  
13 ARISES OUT OF A DATING RELATIONSHIP.

14 2. Summoning each witness, sixteen dollars.

15 3. Levying and returning each writ of attachment or claim and  
16 delivery, forty-eight dollars.

17 4. Taking and approving each bond and returning it to the proper court  
18 when necessary, twelve dollars.

19 5. Endorsing the forfeiture of any bond required to be endorsed by  
20 him, twelve dollars.

21 6. Levying each execution, twenty-four dollars.

22 7. Returning each execution, sixteen dollars.

23 8. Executing and returning each writ of possession or restitution,  
24 forty-eight dollars plus a rate of forty dollars per hour per deputy for the  
25 actual time spent in excess of three hours.

26 9. Posting the advertisement for sale under execution, or any order  
27 of sale, twelve dollars.

28 10. Posting or serving any notice, process, writ, order, pleading or  
29 paper required or permitted by law, not otherwise provided for, sixteen  
30 dollars.

31 11. Executing a deed to each purchaser of real property under execution  
32 or order of sale, twenty-four dollars.

33 12. Executing a bill of sale to each purchaser of real and personal  
34 property under an execution or order of sale, when demanded by the purchaser,  
35 sixteen dollars.

36 13. For services in designating a homestead or other exempt property,  
37 twelve dollars.

38 14. For receiving and paying money on redemption and issuing a  
39 certificate of redemption, twenty-four dollars.

40 15. Serving and returning each writ of garnishment and related papers,  
41 forty dollars.

42 16. For the preparation, including notarization, of each affidavit of  
43 service or other document pertaining to service, eight dollars.

44 B. The sheriff shall also collect the appropriate recording fees if  
45 applicable and other appropriate disbursements.

1 C. The sheriff may charge:

2 1. Fifty-six dollars plus disbursements for any skip tracing services  
3 performed.

4 2. A reasonable fee for storing personal property levied on pursuant  
5 to title 12, chapter 9.

6 D. For traveling to serve or on each attempt to serve civil process,  
7 writs, orders, pleadings or papers, the sheriff shall receive two dollars  
8 forty cents for each mile actually and necessarily traveled but, in any  
9 event, not to exceed two hundred miles, nor to be less than sixteen  
10 dollars. Mileage shall be charged one way only. For service made or  
11 attempted at the same time and place, regardless of the number of parties or  
12 the number of papers so served or attempted, only one charge for travel fees  
13 shall be made for such service or attempted service.

14 E. For collecting money on an execution when it is made by sale, the  
15 sheriff and the constable shall receive eight dollars for each one hundred  
16 dollars or major portion thereof not to exceed a total of two thousand  
17 dollars, but when money is collected by the sheriff without a sale, only  
18 one-half of such fee shall be allowed. When satisfaction or partial  
19 satisfaction of a judgment is received by the judgment creditor after the  
20 sheriff or constable has received an execution on the judgment, the  
21 commission is due the sheriff or constable and is established by an affidavit  
22 of the judgment creditor filed with the officer. If the affidavit is not  
23 lodged with the officer within thirty days of the request, the commission  
24 shall be based on the total amount of judgment due as billed by the officer  
25 and may be collected as any other debt by that officer.

26 F. The sheriff shall be allowed for all process issued from the  
27 supreme court and served by the sheriff the same fees as are allowed the  
28 sheriff for similar services upon process issued from the superior court.

29 G. The constable shall receive the same fees as the sheriff for  
30 performing the same services in civil actions, except that mileage shall be  
31 computed from the office of the justice of the peace originating the civil  
32 action to the place of service.

33 H. Private process servers duly appointed or registered pursuant to  
34 rules established by the supreme court may serve all process, writs, orders,  
35 pleadings or papers required or permitted by law to be served prior to,  
36 during or independently of a court action, including all such as are required  
37 or permitted to be served by a sheriff or constable, except writs or orders  
38 requiring the service officer to sell, deliver or take into the officer's  
39 custody persons or property, or as may otherwise be limited by rule  
40 established by the supreme court. A private process server is an officer of  
41 the court. As a condition of registration, the supreme court shall require  
42 each private process server applicant to furnish a full set of fingerprints  
43 to enable a criminal background investigation to be conducted to determine  
44 the suitability of the applicant. The completed applicant fingerprint card  
45 shall be submitted with the fee prescribed in section 41-1750 to the

1 department of public safety. The applicant shall bear the cost of obtaining  
2 the applicant's criminal history record information. The cost shall not  
3 exceed the actual cost of obtaining the applicant's criminal history record  
4 information. Applicant criminal history records checks shall be conducted  
5 pursuant to section 41-1750 and Public Law 92-544. The department of public  
6 safety is authorized to exchange the submitted applicant fingerprint card  
7 information with the federal bureau of investigation for a federal criminal  
8 records check. A private process server may charge such fees for services  
9 as may be agreed upon between the process server and the party engaging the  
10 process server.

11 I. Constables shall maintain a log of work related activities  
12 including a listing of all processes served and the number of processes  
13 attempted to be served by case number, the names of the plaintiffs and  
14 defendants, the names and addresses of the person PERSONS to be served except  
15 as otherwise precluded by law, the date of process and the daily mileage.

16 J. The log maintained in subsection I of this section is a public  
17 record and shall be made available by the constable at the constable's office  
18 during regular office hours. Copies of the log shall be filed monthly with  
19 the clerk of the justice court and with the clerk of the board of  
20 supervisors.

21 Sec. 2. Section 12-1809, Arizona Revised Statutes, is amended to read:

22 12-1809. Injunction against harassment; petition; venue; fees;  
23 notices; enforcement; definition

24 A. A person may file a verified petition with a magistrate, justice  
25 of the peace or superior court judge for an injunction prohibiting  
26 harassment. If the person is a minor, the parent, legal guardian or person  
27 who has legal custody of the minor shall file the petition unless the court  
28 determines otherwise. The petition shall name the parent, guardian or  
29 custodian as the plaintiff, and the minor is a specifically designated person  
30 for the purposes of subsection F of this section. If a person is either  
31 temporarily or permanently unable to request an injunction, a third party may  
32 request an injunction on behalf of the plaintiff. After the request, the  
33 judicial officer shall determine if the third party is an appropriate  
34 requesting party for the plaintiff. Notwithstanding the location of the  
35 plaintiff or defendant, any court in this state may issue or enforce an  
36 injunction against harassment.

37 B. An injunction against harassment shall not be granted:

38 1. Unless the party who requests the injunction files a written  
39 verified petition for injunction.

40 2. Against a person who is less than twelve years of age unless the  
41 injunction is granted by the juvenile division of the superior court.

42 3. Against more than one defendant.

43 C. The petition shall state all of the following:

44 1. The name of the plaintiff. The plaintiff's address shall be  
45 disclosed to the court for purposes of service. If the address of the

1 plaintiff is unknown to the defendant, the plaintiff may request that the  
2 address be protected. On the plaintiff's request, the address shall not be  
3 listed on the petition. Whether the court issues an injunction against  
4 harassment, the protected address shall be maintained in a separate document  
5 or automated database and is not subject to release or disclosure by the  
6 court or any form of public access except as ordered by the court.

7 2. The name and address, if known, of the defendant.

8 3. A specific statement showing events and dates of the acts  
9 constituting the alleged harassment.

10 4. The name of the court in which there was or is any prior or pending  
11 proceeding or order concerning the conduct which THAT is sought to be  
12 restrained.

13 5. The relief requested.

14 D. A fee shall not be charged for filing a petition under this  
15 section. Fees for service of process may be deferred or waived under any  
16 rule or law applicable to civil actions, EXCEPT THAT FEES FOR SERVICE OF  
17 PROCESS SHALL NOT BE CHARGED IF THE PETITION ARISES OUT OF A DATING  
18 RELATIONSHIP. The court shall advise a plaintiff that the plaintiff may be  
19 eligible for the deferral or waiver of these fees at the time the plaintiff  
20 files a petition. The court shall not require the petitioner to perform  
21 community service as a condition of the waiver or deferral of fees for  
22 service of process. A law enforcement agency or constable shall not require  
23 the advance payment of fees for service of process of injunctions against  
24 harassment. If the court does not waive the fees, the serving agency may  
25 assess the actual fees against the plaintiff. On request of the plaintiff,  
26 an injunction against harassment THAT IS issued by a municipal court may be  
27 served by the police agency for that city if the defendant can be served  
28 within the city. If the defendant cannot be served within the city, the  
29 police agency in the city in which the defendant can be served may serve the  
30 injunction. On request of the plaintiff, each injunction against harassment  
31 THAT IS issued by a justice of the peace shall be served by the constable for  
32 that jurisdiction if the defendant can be served within the jurisdiction. If  
33 the defendant cannot be served within that jurisdiction, the constable in the  
34 jurisdiction in which the defendant can be served shall serve the injunction.  
35 On request of the plaintiff, an injunction against harassment THAT IS issued  
36 by a superior court judge or commissioner may be served by the sheriff of the  
37 county. If the defendant cannot be served within that jurisdiction, the  
38 sheriff in the jurisdiction in which the defendant can be served may serve  
39 the order. The court shall provide, without charge, forms for purposes of  
40 this section for assisting parties without counsel.

41 E. The court shall review the petition, any other pleadings on file  
42 and any evidence offered by the plaintiff to determine whether the injunction  
43 requested should issue without a further hearing. Rules 65(a)(1) and 65(e)  
44 of the Arizona rules of civil procedure do not apply to injunctions THAT ARE  
45 requested pursuant to this section. If the court finds reasonable evidence

1 of harassment of the plaintiff by the defendant during the year preceding the  
2 filing of the petition or that good cause exists to believe that great or  
3 irreparable harm would result to the plaintiff if the injunction is not  
4 granted before the defendant or the defendant's attorney can be heard in  
5 opposition and the court finds specific facts attesting to the plaintiff's  
6 efforts to give notice to the defendant or reasons supporting the plaintiff's  
7 claim that notice should not be given, the court shall issue an injunction  
8 as provided for in subsection F of this section. If the court denies the  
9 requested relief, it may schedule a further hearing within ten days with  
10 reasonable notice to the defendant. For purposes of determining the one year  
11 period, any time that the defendant has been incarcerated or out of this  
12 state shall not be counted.

13 F. If the court issues an injunction, the court may do any of the  
14 following:

15 1. Enjoin the defendant from committing a violation of one or more  
16 acts of harassment.

17 2. Restrain the defendant from contacting the plaintiff or other  
18 specifically designated persons and from coming near the residence, place of  
19 employment or school of the plaintiff or other specifically designated  
20 locations or persons.

21 3. Grant relief necessary for the protection of the alleged victim and  
22 other specifically designated persons proper under the circumstances.

23 G. The court shall not grant a mutual injunction against harassment.  
24 If opposing parties separately file verified petitions for an injunction  
25 against harassment, the courts after consultation between the judicial  
26 officers involved may consolidate the petitions of the opposing parties for  
27 hearing. This does not prohibit a court from issuing cross injunctions  
28 against harassment.

29 H. At any time during the period during which the injunction is in  
30 effect, the defendant is entitled to one hearing on written request. No fee  
31 may be charged for requesting a hearing. A hearing THAT IS requested by a  
32 defendant shall be held within ten days from the date requested unless the  
33 court finds compelling reasons to continue the hearing. The hearing shall  
34 be held at the earliest possible time. An ex parte injunction THAT IS issued  
35 under this section shall state on its face that the defendant is entitled to  
36 a hearing on written request and shall include the name and address of the  
37 judicial office where the request may be filed. After the hearing, the court  
38 may modify, quash or continue the injunction.

39 I. The injunction shall include the following statement:

40 Warning

41 This is an official court order. If you disobey this  
42 order, you may be arrested and prosecuted for the crime of  
43 interfering with judicial proceedings and any other crime you  
44 may have committed in disobeying this order.

1 J. A copy of the petition and the injunction shall be served on the  
2 defendant within one year from the date the injunction is signed. An  
3 injunction that is not served on the defendant within one year expires. The  
4 injunction is effective on the defendant on service of a copy of the  
5 injunction and petition and expires one year after service on the defendant.  
6 A modified injunction is effective upon service and expires one year after  
7 service of the initial injunction and petition.

8 K. Each affidavit, acceptance or return of service shall be promptly  
9 filed with the clerk of the issuing court. This filing shall be completed  
10 in person, shall be made by fax or shall be postmarked, if sent by mail, no  
11 later than the end of the seventh court business day after the date of  
12 service. If the filing is made by fax, the original affidavit, acceptance  
13 or return of service shall be promptly filed with the court. Within  
14 twenty-four hours after the affidavit, acceptance or return of service has  
15 been filed, excluding weekends and holidays, the court from which the  
16 injunction OR ANY MODIFIED INJUNCTION was issued shall forward to the sheriff  
17 of the county in which the court is located a copy of the injunction and a  
18 copy of the affidavit or certificate of service of process or acceptance of  
19 service. On receiving these copies, the sheriff shall register the  
20 injunction. Registration of an injunction means that a copy of the  
21 injunction and a copy of the affidavit or certificate of service of process  
22 or acceptance of service have been received by the sheriff's office. The  
23 sheriff shall maintain a central repository for injunctions so that the  
24 existence and validity of the injunctions can be easily verified. The  
25 effectiveness of an injunction does not depend on its registration, and for  
26 enforcement purposes pursuant to section 13-2810, a copy of an injunction,  
27 whether or not registered, is presumed to be a valid existing order of the  
28 court for a period of one year from the date of service of the injunction on  
29 the defendant. ~~Any changes or modifications of the injunction are effective~~  
30 ~~on entry by the court and shall be registered with the sheriff within~~  
31 ~~twenty-four hours of the entry, excluding weekends and holidays.~~

32 L. A peace officer may, with or without a warrant, MAY arrest a person  
33 if the peace officer has probable cause to believe that the person has  
34 violated section 13-2810 by disobeying or resisting an injunction THAT IS  
35 issued pursuant to this section, whether or not the violation occurred in the  
36 presence of the officer. The provisions for release under section 13-3903  
37 do not apply to an arrest made pursuant to this subsection. A person WHO IS  
38 arrested pursuant to this subsection may be released from custody in  
39 accordance with the Arizona rules of criminal procedure or any other  
40 applicable statute. An order for release, with or without an appearance  
41 bond, shall include pretrial release conditions THAT ARE necessary to provide  
42 for the protection of the alleged victim and other specifically designated  
43 persons and may provide for additional conditions which THAT the court deems  
44 appropriate, including participation in any counseling programs available to  
45 the defendant.

1 M. If a peace officer responds to a call alleging that harassment has  
2 been or may be committed, the officer shall inform in writing any alleged or  
3 potential victim of the procedures and resources available for the protection  
4 of the victim including:

5 1. An injunction pursuant to this section.

6 2. The emergency telephone number for the local police agency.

7 3. Telephone numbers for emergency services in the local community.

8 N. The remedies provided in this section for enforcement of the orders  
9 of the court are in addition to any other civil and criminal remedies  
10 available. The municipal court and the justice court may hear and decide all  
11 matters arising pursuant to this section. After a hearing with notice to the  
12 affected party, the court may enter an order requiring any party to pay the  
13 costs of the action, including reasonable attorney fees, if any. An order  
14 THAT IS entered by a justice court or municipal court after a hearing  
15 pursuant to this section may be appealed to the superior court as provided  
16 in title 22, chapter 2, article 4, section 22-425, subsection B and the  
17 superior court rules of civil appellate procedure without regard to an amount  
18 in controversy. No fee may be charged to either party for filing an appeal.

19 O. A peace officer making WHO MAKES an arrest pursuant to this section  
20 is not civilly or criminally liable for the arrest if the officer acts on  
21 probable cause and without malice. A peace officer is not civilly liable for  
22 noncompliance with subsection M of this section.

23 P. This section does not apply to preliminary injunctions issued  
24 pursuant to an action for dissolution of marriage or legal separation or for  
25 protective orders against domestic violence.

26 Q. In addition to the persons who are authorized to serve process  
27 pursuant to rule 4(d), Arizona rules of civil procedure, a peace officer or  
28 a correctional officer as defined in section 41-1661 who is acting in the  
29 officer's official capacity may serve an injunction against harassment that  
30 is issued pursuant to this section.

31 R. In this section, "harassment" means a series of acts over any  
32 period of time that is directed at a specific person and that would cause a  
33 reasonable person to be seriously alarmed, annoyed or harassed and the  
34 conduct in fact seriously alarms, annoys or harasses the person and serves  
35 no legitimate purpose.

36 Sec. 3. Section 13-3602, Arizona Revised Statutes, is amended to read:

37 13-3602. Order of protection; procedure; contents; arrest for  
38 violation; penalty; protection order from another  
39 jurisdiction

40 A. A person may file a verified petition, as in civil actions, with  
41 a magistrate, justice of the peace or superior court judge for an order of  
42 protection for the purpose of restraining a person from committing an act  
43 included in domestic violence. If the person is a minor, the parent, legal  
44 guardian or person who has legal custody of the minor shall file the petition  
45 unless the court determines otherwise. The petition shall name the parent,

1 guardian or custodian as the plaintiff and the minor is a specifically  
2 designated person for the purposes of subsection G of this section. If a  
3 person is either temporarily or permanently unable to request an order, a  
4 third party may request an order of protection on behalf of the plaintiff.  
5 After the request, the judicial officer shall determine if the third party  
6 is an appropriate requesting party for the plaintiff. For the purposes of  
7 this section, notwithstanding the location of the plaintiff or defendant, any  
8 court in this state may issue or enforce an order of protection.

9 B. An order of protection shall not be granted:

10 1. Unless the party who requests the order files a written verified  
11 petition for an order.

12 2. Against a person who is less than twelve years of age unless the  
13 order is granted by the juvenile division of the superior court.

14 3. Against more than one defendant.

15 C. The petition shall state the:

16 1. Name of the plaintiff. The plaintiff's address shall be disclosed  
17 to the court for purposes of service. If the address of the plaintiff is  
18 unknown to the defendant, the plaintiff may request that the address be  
19 protected. On the plaintiff's request, the address shall not be listed on  
20 the petition. Whether the court issues an order of protection, the protected  
21 address shall be maintained in a separate document or automated database and  
22 is not subject to release or disclosure by the court or any form of public  
23 access except as ordered by the court.

24 2. Name and address, if known, of the defendant.

25 3. Specific statement, including dates, of the domestic violence  
26 alleged.

27 4. Relationship between the parties pursuant to section 13-3601,  
28 subsection A and whether there is pending between the parties an action for  
29 MATERNITY OR PATERNITY, annulment, legal separation or dissolution of  
30 marriage.

31 5. Name of the court in which any prior or pending proceeding or order  
32 was sought or issued concerning the conduct which THAT is sought to be  
33 restrained.

34 6. Desired relief.

35 D. A fee shall not be charged for filing a petition under this  
36 section. ~~Fees OR for service of process. may be deferred or waived under~~  
37 ~~any rule, statute or other law applicable to civil actions. The court shall~~  
38 ~~advise a plaintiff that the plaintiff may be eligible for the deferral or~~  
39 ~~waiver of these fees at the time the plaintiff files the petition. The court~~  
40 ~~shall not require the petitioner to perform community service as a condition~~  
41 ~~of the waiver or deferral of fees for service of process. A law enforcement~~  
42 ~~agency or constable shall not require the advance payment of fees for service~~  
43 ~~of process of orders of protection. If the court does not waive the fees,~~  
44 ~~the serving agency may assess the actual fees against the plaintiff. On~~  
45 ~~request of the plaintiff, each order of protection THAT IS issued by a~~

1 municipal court shall be served by the police agency for that city if the  
2 defendant can be served within the city. If the defendant cannot be served  
3 within the city, the police agency in the city in which the defendant can be  
4 served shall serve the order. If the order cannot be served within a city,  
5 the sheriff shall serve the order. On request of the plaintiff, each order  
6 of protection THAT IS issued by a justice of the peace shall be served by the  
7 constable or sheriff for that jurisdiction if the defendant can be served  
8 within the jurisdiction. If the defendant cannot be served within that  
9 jurisdiction, the constable or sheriff in the jurisdiction in which the  
10 defendant can be served shall serve the order. On request of the plaintiff,  
11 each order of protection THAT IS issued by a superior court judge or  
12 commissioner shall be served by the sheriff of the county. If the defendant  
13 cannot be served within that jurisdiction, the sheriff in the jurisdiction  
14 in which the defendant can be served shall serve the order. Each court shall  
15 provide, without charge, forms for purposes of this section for assisting  
16 parties without counsel. The court shall make reasonable efforts to provide  
17 to both parties an appropriate information sheet on emergency and counseling  
18 services that are available in the local area.

19 E. The court shall review the petition, any other pleadings on file  
20 and any evidence offered by the plaintiff to determine whether the orders  
21 requested should issue without further hearing. The court shall issue an  
22 order of protection under subsection G of this section if the court  
23 determines that there is reasonable cause to believe any of the following:

- 24 1. The defendant may commit an act of domestic violence.  
25 2. The defendant has committed an act of domestic violence within the  
26 past year or within a longer period of time if the court finds that good  
27 cause exists to consider a longer period.

28 F. For purposes of determining the period of time under subsection E,  
29 paragraph 2 of this section, any time that the defendant has been  
30 incarcerated or out of this state shall not be counted. If the court denies  
31 the requested relief, it may schedule a further hearing within ten days, with  
32 reasonable notice to the defendant.

33 G. If a court issues an order of protection, the court may do any of  
34 the following:

- 35 1. Enjoin the defendant from committing a violation of one or more of  
36 the offenses included in domestic violence.  
37 2. Grant one party the use and exclusive possession of the parties'  
38 residence on a showing that there is reasonable cause to believe that  
39 physical harm may otherwise result. If the other party is accompanied by a  
40 law enforcement officer, the other party may return to the residence on one  
41 occasion to retrieve belongings. A law enforcement officer is not liable for  
42 any act or omission in the good faith exercise of the officer's duties under  
43 this paragraph.  
44 3. Restrain the defendant from contacting the plaintiff or other  
45 specifically designated persons and from coming near the residence, place of

1 employment or school of the plaintiff or other specifically designated  
2 locations or persons on a showing that there is reasonable cause to believe  
3 that physical harm may otherwise result.

4 4. If the court finds that the defendant is a credible threat to the  
5 physical safety of the plaintiff or other specifically designated persons,  
6 prohibit the defendant from possessing or purchasing a firearm for the  
7 duration of the order. If the court prohibits the defendant from possessing  
8 a firearm, the court shall also order the defendant to transfer any firearm  
9 owned or possessed by the defendant immediately after service of the order  
10 to the appropriate law enforcement agency for the duration of the order. If  
11 the defendant does not immediately transfer the firearm, the defendant shall  
12 transfer the firearm within twenty-four hours after service of the order.

13 5. If the order was issued after notice and a hearing at which the  
14 defendant had an opportunity to participate, require the defendant to  
15 complete a domestic violence offender treatment program that is provided by  
16 a facility approved by the department of health services or a probation  
17 department or any other program deemed appropriate by the court.

18 6. Grant relief that is necessary for the protection of the alleged  
19 victim and other specifically designated persons and that is proper under the  
20 circumstances.

21 H. The court shall not grant a mutual order of protection. If  
22 opposing parties separately file verified petitions for an order of  
23 protection, the courts after consultation between the judges involved may  
24 consolidate the petitions of the opposing parties for hearing. This does not  
25 prohibit a court from issuing cross orders of protection.

26 I. At any time during the period during which the order is in effect,  
27 a party under an order of protection or restrained from contacting the other  
28 party is entitled to one hearing on written request. No fee may be charged  
29 for requesting a hearing. A hearing THAT IS requested by a party WHO IS  
30 under an order of protection or WHO IS restrained from contacting the other  
31 party shall be held within ten days from the date requested unless the court  
32 finds good cause to continue the hearing. If exclusive use of the home is  
33 awarded, the hearing shall be held within five days from the date requested.  
34 The hearing shall be held at the earliest possible time. An ex parte order  
35 THAT IS issued under this section shall state on its face that the defendant  
36 is entitled to a hearing on written request and shall include the name and  
37 address of the judicial office where the request may be filed. After the  
38 hearing, the court may modify, quash or continue the order.

39 J. The order shall include the following statement:

40 Warning

41 This is an official court order. If you disobey this  
42 order, you may be arrested and prosecuted for the crime of  
43 interfering with judicial proceedings and any other crime you  
44 may have committed in disobeying this order.

1 K. A copy of the petition and the order shall be served on the  
2 defendant within one year from the date the order is signed. An order of  
3 protection that is not served on the defendant within one year expires. An  
4 order is effective on the defendant on service of a copy of the order and  
5 petition. An order expires one year after service on the defendant. A  
6 modified order is effective upon service and expires one year after service  
7 of the initial order and petition.

8 L. Each affidavit, acceptance or return of service shall be promptly  
9 filed with the clerk of the issuing court. This filing shall be completed  
10 in person, shall be made by fax or shall be postmarked, if sent by mail, no  
11 later than the end of the seventh court business day after the date of  
12 service. If the filing is made by fax, the original affidavit, acceptance  
13 or return of service shall be promptly filed with the court. Within  
14 twenty-four hours after the affidavit, acceptance or return of service has  
15 been filed, excluding weekends and holidays, the court from which the order  
16 OR ANY MODIFIED ORDER was issued shall forward to the sheriff of the county  
17 in which the court is located a copy of the order of protection and a copy  
18 of the affidavit or certificate of service of process or acceptance of  
19 service. On receiving these copies, the sheriff shall register the order.  
20 Registration of an order means that a copy of the order of protection and a  
21 copy of the affidavit or acceptance of service have been received by the  
22 sheriff's office. The sheriff shall maintain a central repository for orders  
23 of protection so that the existence and validity of the orders can be easily  
24 verified. The effectiveness of an order does not depend on its registration,  
25 and for enforcement purposes pursuant to section 13-2810, a copy of an order  
26 of the court, whether or not registered, is presumed to be a valid existing  
27 order of the court for a period of one year from the date of service of the  
28 order on the defendant. ~~Any changes or modifications of the order are~~  
29 ~~effective upon entry of an order of the court and shall be registered with~~  
30 ~~the sheriff within twenty-four hours of the entry of the order, excluding~~  
31 ~~weekends and holidays.~~

32 M. A peace officer may, with or without a warrant, MAY arrest a person  
33 if the peace officer has probable cause to believe that the person has  
34 violated section 13-2810 by disobeying or resisting an order THAT IS issued  
35 in any jurisdiction in this state pursuant to this section, whether or not  
36 such violation occurred in the presence of the officer. Criminal violations  
37 of an order issued pursuant to this section shall be referred to an  
38 appropriate law enforcement agency. The law enforcement agency shall request  
39 that a prosecutorial agency file the appropriate charges. A violation of an  
40 order of protection shall not be adjudicated by a municipal or justice court  
41 unless a complaint has been filed or other legal process has been requested  
42 by the prosecuting agency. The provisions for release under section 13-3883,  
43 subsection A, paragraph 4 and section 13-3903 do not apply to an arrest made  
44 pursuant to this section. For purposes of this section, any court in this

1 state has jurisdiction to enforce a valid order of protection that is issued  
2 in this state and that has been violated in any jurisdiction in this state.

3 N. A person WHO IS arrested pursuant to subsection M of this section  
4 may be released from custody in accordance with the Arizona rules of criminal  
5 procedure or any other applicable statute. An order for release, with or  
6 without an appearance bond, shall include pretrial release conditions THAT  
7 ARE necessary to provide for the protection of the alleged victim and other  
8 specifically designated persons and may provide for ANY OTHER additional  
9 conditions which THAT the court deems appropriate, including participation  
10 in any counseling programs available to the defendant.

11 O. The remedies provided in this section for enforcement of the orders  
12 of the court are in addition to any other civil and criminal remedies  
13 available. The superior court shall have exclusive jurisdiction to issue  
14 orders of protection in all cases if it appears from the petition that an  
15 action for maternity or paternity, annulment, legal separation or dissolution  
16 of marriage is pending between the parties. A municipal court or justice  
17 court shall not issue an order of protection if it appears from the petition  
18 that an action for maternity or paternity, annulment, legal separation or  
19 dissolution of marriage is pending between the parties. After issuance of  
20 an order of protection, if the municipal court or justice court determines  
21 that an action for maternity or paternity, annulment, legal separation or  
22 dissolution of marriage is pending between the parties, the municipal court  
23 or justice court shall stop further proceedings in the action and forward all  
24 papers, together with a certified copy of docket entries or any other record  
25 in the action, to the superior court where they shall be docketed in the  
26 pending superior court action and shall proceed as though the petition for  
27 an order of protection had been originally brought in the superior court.  
28 Notwithstanding any other law and unless prohibited by an order of the  
29 superior court, a municipal court or justice court may hold a hearing on all  
30 matters relating to its ex parte order of protection if the hearing was  
31 requested before receiving written notice of the pending superior court  
32 action. No order of protection shall be invalid or determined to be  
33 ineffective merely because it was issued by a lower court at a time when an  
34 action for maternity or paternity, annulment, legal separation or dissolution  
35 of marriage was pending in a higher court. After a hearing with notice to  
36 the affected party, the court may enter an order requiring any party to pay  
37 the costs of the action, including reasonable attorney fees, if any. An  
38 order THAT IS entered by a justice court or municipal court after a hearing  
39 pursuant to this section may be appealed to the superior court as provided  
40 in title 22, chapter 2, article 4, section 22-425, subsection B and the  
41 superior court rules of civil appellate procedure without regard to an amount  
42 in controversy. No fee may be charged to either party for filing an appeal.  
43 For the purposes of this subsection, "pending" means, with respect to an  
44 action for annulment, legal separation or dissolution of marriage or for  
45 maternity or paternity, either that:

1           1. An action has been commenced but a final judgment, decree or order  
2 has not been entered.

3           2. A post-decree proceeding has been commenced but a judgment, decree  
4 or order finally determining the proceeding has not been entered.

5           P. A peace officer making WHO MAKES an arrest pursuant to this section  
6 or section 13-3601 is not civilly or criminally liable for such THE arrest  
7 if the officer acts upon ON probable cause and without malice.

8           Q. In addition to persons authorized to serve process pursuant to rule  
9 4(d) of the Arizona rules of civil procedure, a peace officer or a  
10 correctional officer as defined in section 41-1661 who is acting in the  
11 officer's official capacity may serve an order of protection THAT IS issued  
12 pursuant to this section. Service of the order of protection has priority  
13 over other service of process that does not involve an immediate threat to  
14 the safety of a person.

15           R. A valid protection order that is related to domestic or family  
16 violence and that is issued by a court in another state, a court of a United  
17 States territory or a tribal court shall be accorded full faith and credit  
18 and shall be enforced as if it were issued in this state for as long as the  
19 order is effective in the issuing jurisdiction. For the purposes of this  
20 subsection:

21           1. A protection order includes any injunction or other order that is  
22 issued for the purpose of preventing violent or threatening acts or  
23 harassment against, contact or communication with or physical proximity to  
24 another person. A protection order includes temporary and final orders other  
25 than support or child custody orders that are issued by civil and criminal  
26 courts if the order is obtained by the filing of an independent action or is  
27 a pendente lite order in another proceeding. The civil order shall be issued  
28 in response to a complaint, petition or motion that was filed by or on behalf  
29 of a person seeking protection.

30           2. A protection order is valid if the issuing court had jurisdiction  
31 over the parties and the matter under the laws of the issuing state, a United  
32 States territory or an Indian tribe and the person against whom the order was  
33 issued had reasonable notice and an opportunity to be heard. If the order  
34 is issued ex parte, the notice and opportunity to be heard shall be provided  
35 within the time required by the laws of the issuing state, a United States  
36 territory or an Indian tribe and within a reasonable time after the order was  
37 issued.

38           3. A mutual protection order that is issued against both the party who  
39 filed a petition or a complaint or otherwise filed a written pleading for  
40 protection against abuse and the person against whom the filing was made is  
41 not entitled to full faith and credit if either:

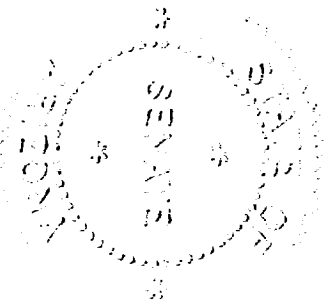
42           (a) The person against whom an initial order was sought has not filed  
43 a cross or counter petition or other written pleading seeking a protection  
44 order.

1 (b) The issuing court failed to make specific findings supporting the  
2 entitlement of both parties to be granted a protection order.

3 4. A peace officer may presume the validity of and rely on a copy of  
4 a protection order that is issued by another state, a United States territory  
5 or an Indian tribe if the order was given to the officer by any source. A  
6 peace officer may also rely on the statement of any person who is protected  
7 by the order that the order remains in effect. A peace officer who acts in  
8 good faith reliance on a protection order is not civilly or criminally liable  
9 for enforcing the protection order pursuant to this section.

APPROVED BY THE GOVERNOR MAY 30, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 30, 2002.



Passed the House May 2, 2002,

by the following vote: 31 Ayes,

22 Nays, 7 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate March 27, 2002,

by the following vote: 28 Ayes,

2 Nays, 0 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

       day of       , 20  ,

at        o'clock        M.

        
Secretary to the Governor

Approved this        day of

      , 20  ,

at        o'clock        M.

        
Governor of Arizona

S.B. 1394

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this        day of       , 20  ,

at        o'clock        M.

        
Secretary of State

HOUSE FINAL PASSAGE

as per Joint Conference

~~Passed~~ **FAILED**

the House May 21, 2002,

by the following vote: 26 Ayes,

23 Nays, 11 Not Voting

Speaker of the House  
*Pro Tempore*

Speman L. Moore  
Chief Clerk of the House

SENATE FINAL PASSAGE

as per Joint Conference

Passed the Senate May 21, 2002,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

President of the Senate

Randall Anant  
Charmine Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

Secretary to the Governor

Approved this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

Governor of Arizona

S.B. 1394

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

Secretary of State

## ON RECONSIDERATION

### HOUSE FINAL PASSAGE

as per Joint Conference

Passed the House May 22, 2002,

by the following vote: 48 Ayes,

8 Nays, 4 Not Voting

Jake Flak  
Speaker of the House  
Pro Tempore  
Norman L. Moore  
Chief Clerk of the House

### SENATE FINAL PASSAGE

as per Joint Conference

Passed the Senate \_\_\_\_\_, 20\_\_\_\_,

by the following vote: \_\_\_\_\_ Ayes,

\_\_\_\_\_ Nay, \_\_\_\_\_ Not Voting

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Secretary of the Senate

### EXECUTIVE DEPARTMENT OF ARIZONA OFFICE OF GOVERNOR

This Bill was received by the Governor

this 23 day of May, 2002,

at 10:55 o'clock A M.

Jandra Hamisey  
Secretary to the Governor

Approved this 30 day of

May, 2002,

at 1:22 o'clock P M.

Janie McCall  
Governor of Arizona

### EXECUTIVE DEPARTMENT OF ARIZONA OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 30 day of May, 2002,

at 3:49 o'clock P M.

Betsy Bayless  
Secretary of State

S.B. 1394